

Cynthia K. Cox
Executive Director-
Federal and State Relations

Suite 900
1133-21st Street, N.W.
Washington, D.C. 20036-3351
202 463-4104
Fax: 202 463-4196

April 16, 1999

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th St. S.W.
Washington, D.C. 20554

RECEIVED

APR 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 98-137

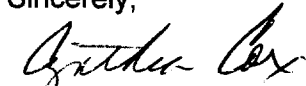
Dear Ms. Salas:

On April 15, 1999 Peter Martin, David Cunningham, Diane Bloom and I, representing BellSouth, participated in a teleconference with the following members of the Common Carrier Bureau staff: Jane Jackson, Chief of the Competitive Pricing Division; Jay Atkinson, Division Chief Economist, and Douglas Slotten, Senior Attorney in that Division.

In its Notice of Proposed Rulemaking in CC Docket 98-137, at paragraph 6, the Commission had noted several concerns raised by a proposal that it forbear from prescribing depreciation rates. During the conversation we focused upon the identified concerns relating to the Commission's price cap regulation regime. In particular BellSouth representatives discussed why forbearance would not significantly affect: calculation of low end adjustments; recalculation of the productivity factor; the base factor portion calculation; above cap tariff filings; rates for interconnection of UNEs, and universal service support. We also discussed why forbearance would not trigger automatically an exogenous cost event. The attached documents informed and provided the basis for our presentation.

As required by Section 1.1206(b) (2) of the Commission's rules, I am filing two copies of this notice in CC Docket No. 98-137 and ask that you associate this notification with the record in that proceeding.

Sincerely,



Cynthia Cox

cc: Jane Jackson (w/o attachment)
Jay Atkinson (w/o attachment)
Doug Slotten (w/o attachment)

No. of Copies rec'd 042
List ABCDE

1998 Biennial Regulatory Review (CC Docket No. 98-137)

USTA Petition for Forbearance
From Depreciation Regulation
(ASD 98-91)

April 15, 1999

Background

- Telecommunications Act of 1996
 - Permits Forbearance (Section 220(b))
 - Requires Elimination of Unnecessary Rules and Regulations (Section 10)
 - ‘98 Biennial Review Requirements (Section 11)
- Depreciation identified by Commission as a “prime candidate” for inclusion in ‘98 Biennial Review
- USTA Petition for Forbearance filed 9-21-98 (per Section 10(c))
- FCC’s NPRM released 10-14-98

Continued Depreciation Is Not Needed to Insure Price Cap Carriers' Charges, Practices, Classifications or Regulations are Just and Reasonable

- Forbearance would not significantly affect:
 - Calculation of low-end adjustment
 - Adjustments very rarely sought
 - ILECs have burden of proof to support adjustment
 - ILEC LFAM filing subject to FCC review

- Forbearance will not significantly affect
 - Recalculation of productivity factor
 - Depreciation changes have no effect on X-factor if FCC model used
 - Future X-factor adjustments to depend on industry-wide performance rather than individual ILEC interstate earnings
 - Exogenous cost determination
 - FCC Part 61 rules require specific review of proposed exogenous changes due to Part 32
 - Forbearance does not automatically trigger an exogenous cost event

- Forbearance would not significantly affect
 - Base Factor Portion Calculation
 - Common Line Basket PCI to be calculated solely on revenue rather than revenue requirement basis
 - Changing depreciation rates cannot affect EUCL, PICC and CCL charges
 - Above Cap Tariff Filings
 - ILEC must provide detailed support for “above cap” tariff filings
 - Commission has final authority to allow prices to go into effect

- Forbearance would not significantly affect
 - Rates for Interconnection or UNEs, or universal service support
 - Forward looking price mechanisms should reflect economic depreciation factors, not factors set using historical behavior
 - With or without forbearance, FCC could substitute its own depreciation parameters for these issues
 - All UNEs and universal service costs are subject to state and federal review

Summary

- The Commission should forbear from regulating depreciation NOW
- Forbearance does not significantly affect any of the calculations about which the Commission was concerned
- Forbearance promotes efficiency and competition